

**Steven Smith**  
1224 N. E. Walnut St. #273  
Roseburg, OR 97470

August 19, 2019

Elaine Chao, Secretary  
U.S. Dept. of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590  
ATTN: FOIA

Dear Ms. Chao:

This letter contains (1), a complaint regarding a low-level overflight of my home, and (2), FOIA requests. These are directed to the U.S. Dept. of Transportation and all subordinate agencies including but not limited to the FAA.

**Complaint**

Contrary to 14 CFR 91.119(c) which prohibits flights within 500 feet of my home, on August 12, 2019 blue plane # N3765R made a low-level overflight (picture attached at Exhibit #1) within approximately 100-125 feet of my home at approximately 3:00 p.m. This was a particularly dangerous overflight as it was directly over my home and the pilot appeared to be erratic, I observed two or three instances of wing wobbling as was previously described by my neighbor (see statement attached at Exhibit #2, name and address redacted, I have previously supplied you with the unredacted statement). I request that you investigate and take enforcement action regarding said overflight.

For your information there was a similar close flight by this plane a month or two ago which I did not complain about because these flight school planes have for some time been doing a better job staying over the valley and not over my home. That particular flight was much too close, about 150 feet from my home, but was to the east of my home toward the valley and I treated it as an isolated and perhaps inadvertent incident. This August 12, 2019 overflight was not inadvertent but deliberate, the same plane made a similar flight a few minutes previously slightly further away from my home.

**FOIA request #1 (regarding the August 12, 2019 overflight).**

I request pursuant to the Freedom of Information Act that you produce the following;

Request 1A. Any and all records, documents, email or other material identifying the owner of record as of August 12, 2019 of airplane # N3765R.

Request 1B. Any and all records, documents, email or other material identifying the pilot of airplane # N3765R at approximately 3:00 p.m. on August 12, 2019.

Request 1C. In the event this August 12, 2019 overflight described above was investigated, any and all records, documents, email or other material regarding investigation of the August 12, 2019 overflight described above conducted by the U.S. Dept. of Transportation and/or subordinate agency FAA.

Request 1D. In the event this August 12, 2019 overflight described above was not investigated, any and all records, documents, email or other material regarding the determination to make no investigation of this August 12, 2019 overflight.

**FOIA request #2 (regarding the CCMS document dated August 21, 2012, sample page attached at Exhibit #3).**

Note - You previously provided page 150 and a few subsequent pages of this document beginning with section 6.3.1.

Request 2. I request pursuant to the Freedom of Information Act that you produce the entire section 6 of said August 21, 2012 CCMS document.

**FOIA request #3 (regarding the August 16, 2016 letter from Mr. Duncan, Exhibit #4).**

Note - The following request pertains to the first sentence of Mr. Duncan's letter, *i.e.*, "Secretary Anthony Foxx has asked us to respond to your letters concerning aircraft noise...." I have not to my knowledge ever complained of aircraft noise but only of 14 CFR 91.119(c) violations.

Request 3A. I request pursuant to the Freedom of Information Act that you produce any and all letters which are signed by Steven Smith and which are directed to the Department of Transportation or any subordinate agency thereof which specifically complain of aircraft noise. Do not produce any record which is not signed by Steven Smith. Do not produce any record which does not directly and explicitly mention aircraft noise.

Request 3B. I request pursuant to the Freedom of Information Act that you produce any and all records of Secretary Anthony Foxx's request that a response be made to the purported "letters concerning aircraft noise" referred to above.

Note - The following requests pertain to that certain language in paragraph #2 of Mr. Duncan's letter, *i.e.*, "The same regulation allows lower, but safe altitudes 'when necessary for takeoff and landing.' Therefore, an airplane in an established traffic pattern may be operated at lower altitudes than above." Mr. Duncan's language implies without explicitly stating that flying over my home at lower than the 500 feet is necessary for takeoff and landing. As illustrated on Exhibit #5 my home is on a hill approximately one and one-half/two miles northwest of the airport where the plane I describe in my complaint took off, my home is well to the west of the takeoff/landing

path, which goes north/south and does not go northwest toward my home. I have taken a picture of the Roseburg airport from my home with a line parallel to the runway showing that takeoff from the north end of the runway leads away from my home. Exhibit #6. Because I am well to the west of the takeoff/landing path and far from either end of the runway it is obviously not necessary to fly over my home at any altitude, much less within 500 feet, in order to takeoff or land, planes take off and land every day while never coming closer than a mile from my home.

Request 3C. I request pursuant to the Freedom of Information Act that you produce any and all officially published rules which define an "established traffic pattern." Alternatively you may provide citation to the Code of Federal Regulations.

Request 3D. I request pursuant to the Freedom of Information Act that you produce any and all officially published rules which provide that such "established traffic pattern," as defined by the officially published rules identified in request 3C above, is exempt from the provisions of 14 CFR 91.119(c). Alternatively you may provide citation to the Code of Federal Regulations.

Request 3E. I request pursuant to the Freedom of Information Act that you produce any and all records which show an "established traffic pattern," as defined in officially published rules referenced above, within 500 feet from my home.

**FOIA request #4 (regarding action taken upon these August 19, 2019 FOIA requests).**

I request pursuant to the Freedom of Information Act that you produce the following;

Request 4A. Any and all records, documents, email or other material showing the date these FOIA requests were received by the U.S. Dept. of Transportation.

Request 4B. Any and all records, documents, email or other material identifying any and all employees or agents of the U.S. Dept. of Transportation and/or its subordinate agencies who read or reviewed these FOIA requests or any portion of these FOIA requests.

Request 4C. Any and all records, documents, email or other material identifying the employees or agents of the U.S. Dept. of Transportation and/or its subordinate agencies who participated in searching for records responsive to these FOIA requests or any portion of these FOIA requests.

Request 4D. Any and all records, documents, email or other material identifying the date on which the search for records responsive to these FOIA requests was begun.

Request 4E. Any and all records, documents, email or other material identifying the date on which the search for records responsive to these FOIA requests was concluded.

**Fee Category**

My FOIA fee category is "All Others." I agree to pay up to and including \$25 for this request; if the fee for this request is in excess of \$25 kindly notify me in writing of the fee you claim is needed for this request and include full details regarding how you calculated such fee. Also please take notice that I reserve the right to contest any fee I consider to be unreasonable on the following grounds; 5 USC 552(a)(4)(A)(iii) in the public interest, and/or, 5 USC 552(a)(4)(A)(iv)(II) for the first two hours of search time or for the first one hundred pages of duplication, and/or, 5 USC 552(a)(4)(A)(viii) in the event of your failure to comply with applicable time limits for your response, and/or any other grounds as provided by law.

Sincerely,



Steven Smith

Attachments, Exhibits 1-6

#### CERTIFICATE OF MAILING

I am Steven Smith, over the age of 18 years and otherwise competent to make this declaration, and I declare subject to penalty for perjury that the following is true to the best of my knowledge, information and belief.

I certify that on August 19, 2019 I mailed the original copy of this document to:  
Elaine Chao, Secretary  
U.S. Dept. of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590  
ATTN: FOIA

by placing said document in the United States Mail, so addressed, which is the last known address, by first class mail, postage prepaid.

Dated August 19, 2019

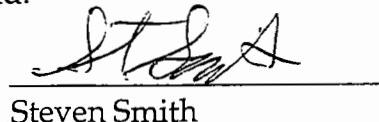
  
\_\_\_\_\_  
Steven Smith



Exhibit #1

STATEMENT OF [REDACTED]

1. My name is [REDACTED], my home is located at [REDACTED] adjoining Mr. Smith's home.
2. I am familiar with the following facts and circumstances concerning the low altitude overflights Mr. Smith writes about above.
  - a. I first noticed the low altitude flights on or about the Spring of 2006 when I began to build my home. What brought my immediate attention was the extremely low altitude of the airplanes over my property and the number of times the low altitude flights would occur, sometimes 20-30 per day. Many of those flights came in at under 50 - 60 ft. over what is now Mr. Smith's property.
  - b. Regarding the unsafe nature of the overflights Mr. Smith speaks of above I can confirm that I have observed on at least 100 occasions the wing wobbling and pilots appearing to struggle with the controls at under 100 ft. altitude over Mr. Smith's property.
  - c. After I observed these flights continuing I did some investigation and formed the opinion that all or substantially all of these low altitude overflights originated at the local flight school, Western Oregon Aviation, see attached Articles of Organization. I called the owner, Robert Levin, and Mr. Levin admitted that the overflying planes were his but denied that he was doing anything wrong, saying something to the effect that he wasn't worried about the FAA because the FAA didn't aggressively enforce the altitude limits anyway.
3. Having been here much longer than Mr. Smith I am able to relate some additional observations beyond what Mr. Smith has reported above. I have observed these planes prematurely banking to the left shortly after takeoff while still at very low altitude, the pilots having to put their wings in a nearly vertical position in order to avoid the hill we live on and ending up at nearly eye-level to Mr. Smith's home. I describe it as similar to an out of control race car sliding around a turn.

Dated 6-10-13



- o As a link from an email notification
- o In the system's Pending Work folders

### **6.3.1. Email Notification**

All notifications contain a hypertext link to the specified work folder. The following is an example of a hypertext link:

<http://ccm.dot.gov/ccms/Folders>ShowFolder.cfm?Folder=S10-020513-011>

In an actual email, clicking on the link would take the user to the specified folder.

CCMS generates two types of assignment email notifications to notify the action office that a folder has been opened:

#### **6.3.1.1. Action Notification**

An email generated to advise the action office of a new work folder that has been assigned to their office. Action notifications may be:

- o Documents assigned for action. Work folder will be in Pending Work Folders.
- o Notification of a return for rewrites.
- o Notification of assignment for coordination
- o Request for a status update.

#### **6.3.1.2. Information Notification**

- o An email generated to provide information on a work folder. No action is required. Examples of Information notifications are:
  - o Folder sent as an information copy.
  - o Notification that the outgoing document is signed.

### **6.4. Reviewing Work Folders**

#### **6.4.1. Pending Work Folder**

All existing assignments routed to an organization for action are placed in Pending Work folders. The list of pending work folders is displayed in the "Pending Work Folders" action screen. The list is separated into three sections designated by tabs above the list:

- o All Folders – Includes all pending folders.



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

800 Independence Avenue SW  
Washington, DC 20591

AUG 16 2016

Mr. Steven Smith  
1224 N. E. Walnut Street  
Roseburg, OR 97470

Dear Mr. Smith:

Secretary Anthony Foxx has asked us to respond to your letters concerning aircraft noise coming from Western Oregon Flying Services LLC flight school located at the Roseburg airfield near your home in Roseburg, Oregon.

The Federal Aviation Administration (FAA) is committed to aviation safety and the safety of the public. Our safety regulations apply to the operations you described. Title 14 Code of Federal Regulations section 91.119(b) requires an altitude of 1,000 feet above the highest obstacle within 2,000 feet of an airplane for flight over congested areas, 91.119(c) requires an altitude of 500 feet above the surface or not closer than 500 feet to a person, vehicle or structure. The same regulation allows lower, but safe altitudes "when necessary for takeoff and landing." Therefore, an airplane in an established traffic pattern may be operated at lower altitudes than above. The Northwest Mountain Region has previously investigated safety concerns from you about the Roseburg, Oregon airfield during 2013 and 2014. Your complaints are identical to the previous complaints received from you that were investigated with no findings of violations.

The Portland Flight Standards District Office (FSDO) has sent personnel to investigate your complaints. The office manager and assistant manager also went to Roseburg airfield to observe aircraft operations in their flight patterns. They also met with the owner of Western Oregon Flying Services LLC flight school.

They have made attempts to meet with you and you indicated to them that you wanted all further communications in writing. The FAA has not been able to substantiate any regulatory issues regarding these flights that you mentioned in your letters. We have observed that your home is located below the downwind leg for runway 34 at the Roseburg Airport and we understand your concerns, however, there has been no FAA safety regulation violations associated with these overflights, committed by the Western Oregon Flying Services LLC flight school. The Portland FSDO in previous letters has referred you to the Roseburg Airport Director regarding concerns about airport traffic in the pattern. The FAA considers your complaints to be addressed and no further action is necessary by the FAA.

( )  
Exhibit #4

We hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Duncan". The signature is fluid and cursive, with "John" on the first line and "S. Duncan" on the second line.

John S. Duncan  
Director, Flight Standards Service

Google Maps



South  
North  
runway

Exhibit #5



South

North

**Steven Smith**  
1224 N. E. Walnut St. #273  
Roseburg, OR 97470

April 17, 2019

Alex M. Azar II, Secretary, Health & Human Services  
U.S. Dept. of Health & Human Services  
200 Independence Ave. SW  
Washington, D.C. 20201  
Attn: FOIA

**Introduction**

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**FOIA requests**

These requests are directed at the U.S. Dept. of Health & Human Services and any and all agencies and offices subordinate to the Secretary of the U.S. Dept. of Health & Human Services. I request pursuant to the Freedom of Information Act;

1. Any and all records, documents or other material regarding or related to Medicare coverage for biopsies of lesions suspicious for cancer.
2. Any and all records, documents or other material regarding or related to Medicare coverage for biopsies of lesions in the oral cavity suspicious for cancer.
3. Any and all records, documents or other material regarding or related to Medicare coverage for biopsies of lesions on the gums suspicious for cancer.
4. Any and all HHS or subordinate agency guidelines, memos, directives, policy manuals and communications regarding or related to the subjects listed in FOIA requests 1 through 3 above.
5. Any and all CFR regulations regarding or related to the subjects listed in FOIA requests 1 through 3 above. In the event said CFR regulations are available on an HHS or subordinate agency website available to the public at no charge you may alternatively provide the complete CFR citation and the complete web address to such CFR regulations.

Sincerely,

Steven Smith

Attachment, Certificate of Mailing

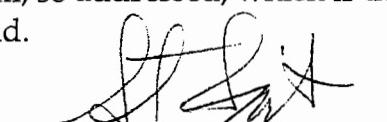
Exhibit #2 To Complaint

CERTIFICATE OF MAILING

I am Steven Smith, over the age of 18 years and otherwise competent to make this declaration, and I declare subject to penalty for perjury that the following is true to the best of my knowledge, information and belief.

I certify that on April 17, 2019 I mailed the original copy of this document to:  
Alex M. Azar II, Secretary, Health & Human Services  
U.S. Dept. of Health & Human Services  
200 Independence Ave. SW  
Washington, D.C. 20201  
Attn: FOIA  
by placing said document in the United States Mail, so addressed, which is the last known address, by first class mail, postage prepaid.

Dated April 17, 2019

  
Steven Smith